Statement

Insurance Association of Connecticut

Government Administration and Elections Committee

March 3, 2015

HB948 – An Act Increasing Opportunities for Small Contractors and Minority Business Enterprises Under the Set-Aside Program

The Insurance Association of Connecticut, IAC, is opposed to HB948, An Act Increasing Opportunities for Small Contractors and Minority Business Enterprises Under the Set-Aside Program, as proposed.

The IAC opposes any effort to waive bonding requirements for any contractors involved in public works projects. There is a good public policy for the universal requirement of surety bonds and the federal government, all states and most municipalities recognize the bond's value to help manage risk by protecting taxpayer dollars and ensuring the payment of subcontractors and suppliers.

The stated purpose of this bill is to implement the Governor's budget recommendations and as expressed in the title to increase opportunities for small contractors and minority business enterprises. The Governor's Budget Address emphasizes the economic importance of small businesses and the IAC echoes that sentiment; however, subjecting fewer contractors to the bond requirements in 4a-60g quite possibly could put at risk the very people this proposal is seeking to help. Many small subcontractors and suppliers rely on the general contractor's payment bond for protection as mechanics liens cannot be asserted against public property. Likewise, exempting contractors from bonding requirements can inhibit their growth and financial stability. Even if bonds are waived, contractors will need to seek bonding at some point and the sooner they are required to enter into the bonding world, the easier it will be to meet the standards necessary to ensure the contractor is taking steps necessary to manage its business correctly and efficiently.

In addition, not requiring bonds puts the Connecticut taxpayer at risk from receiving the protections from potentially poor workmanship and failure to perform. If a surety backs a contractor that defaults on a project, the full amount of the surety bond is available to complete the work contracted for. For example, surety bonds protect projects of all sizes, including those below $500,000, which would be waived by this proposed legislation. Between 2001 and 2013, approximately $3.5 billion in contract exposure was protected by surety bonds below $500,000. As such, if the bond requirement for contracts under $500,000 had been waived over this time frame, the state and local municipalities would have been responsible for this $3.5 billion in exposure.

The IAC members and the Surety & Fidelity Association (SFAA) have long advocated the establishment of a surety bond program to assist emerging contractors to more effectively compete for public works contracts and recommend that this path will benefit the small and minority business enterprises with greater success than a waiver. Therefore, we renew our offer to work with the state to develop and implement educational programs to assist emerging contractors through the qualification and bonding process. Attached to this testimony is a document explaining the SFAA's Model Contractor Development Program and highlighting the surety industry's commitment to making bonding available to all sectors of the construction community through information and access to resources.

Many states including New York, Mississippi, and Rhode Island, have opted to assist emerging contractors through the SFAA program and the results have been rewarding. If Connecticut wants to assist such contractors, the State's resources would be better used in working with the market to develop and implement such a program to assist emerging contracts through prequalification and bonding process rather than waiving bonding requirements.

SFAA's Model Contractor Development Program® and Progress in Assisting Small and Emerging Contractors

SFAA's Model Contractor Development Program®

The Surety & Fidelity Association of America (SFAA) is a non-profit corporation whose member companies collectively write the majority of surety and fidelity bonds in the U.S. SFAA is a licensed rating or advisory organization in all states and is designated by state insurance departments as a statistical agent for the reporting of fidelity and surety experience.

The Model Contractor Development Program (MCDP)®, which SFAA developed and introduced at its Annual Meeting in 2000, is a surety industry-sponsored program aimed at increasing access to bonding for small and emerging contractors. Since its beginnings as a modest program of bonding information and assistance adapted from the best practices of various local surety associations (LSAs), the MCDP® has evolved into a comprehensive program of bonding awareness, education, and support that continues to be implemented in locales around the country. To date, thousands of contractors have been impacted, and the level of bonding offered and underwritten exceeds $617 million ($241 million through the MCDP® and $376 from SFAA's partnership with the U.S. DOT on the Bonding Education Program). It should also be noted that bonds obtained through the MCDP® are for small amounts, which means that the overall total indicates that the MCDP® has helped numerous small and emerging contractors.

The current MCDP® is comprised of two distinct components: education and bond readiness. The educational component offers eight comprehensive workshops on topics ranging from construction accounting to bonding and insurance to estimating and bidding. These workshops are designed to assist contractors in improving their company's operations, thereby making it easier to obtain surety bonds. Most of the classes are taught by volunteers from LSAs and other surety professionals. The surety industry has an incentive to participate in these programs, as every company and agent want to write more bonds. They look for ways to develop relationships with contractors that are able to qualify for bonds and will grow and move on to bigger projects. The Construction Financial Management Association (CFMA), the Associated Builders and Contractors (ABC), the Associated General Contractors (AGC), and the National Association of Surety Bond Producers (NASBP) also provide local instructors.

Initially, SFAA implemented the MCDP® on a local basis wherever it was needed. Early on, SFAA participated actively in the meetings and programs of the National Association of Minority Contractors, National Conference of Black Mayors, and the National Black Caucus of State Legislators to promote our MCDP®. The relationships built through those organizations have created a network that has assisted in the implementation of our MCDP®.

In 2007, SFAA first implemented the MCDP® on a statewide basis in Mississippi, in which MCDP® programs were conducted in multiple locations throughout the state as part of an overall plan to help small and emerging contractors. Since its inception, the Mississippi Program has been implemented in several locations around the state and has graduated more than 400 small, minority, and women contractors. More importantly, over $12 million in bonding can be attributed directly to this program.

In 2008, SFAA implemented the MCDP® on a statewide basis in New York. We conducted MCDPs® around the state for the next three years. Based on a white paper that SFAA wrote after three years, a program based on our MCDP® has been institutionalized within the New York state government, and SFAA no longer is directly involved. Bonding that has been offered or underwritten by surety companies on behalf of contractors participating in the New York State Bonding Initiative has grown to more than $100 million, including more than $18 million in bonding that has been obtained by female contractor participants, thanks to SFAA's additional efforts with the Women Builders Council in New York City.

In 2010, SFAA entered into an agreement with the U.S. Department of Transportation (DOT) to assist DOT in designing, developing, and implementing the DOT Bonding Education Program (BEP). This was SFAA's first opportunity to implement our MCDP® nationally. SFAA worked with DOT to develop a bonding education program based on our MCDP®. SFAA and DOT implemented the BEP in 12 locales in 2011, with programs conducted through the DOT's network of Small Business Transportation Resource Centers. Since the BEP's inception in 2010, 66 programs have been implemented, and nearly 250 contractors across the country have achieved bonding totaling $376 million. BEPs continue to be held in multiple locales each year.

Those Who Recognize the Impact of the MCDP®

--In his first State of the State address in 2011, New York Governor Cuomo cited the MCDP® initiative as having served more than 70 minority- and women-owned businesses since its creation in 2007, and specifically instructed the Empire State Development Corporation to determine how this program can be more broadly replicated in a "best practices" scenario.

SFAA also has received the following awards for implementation of its MCDP®:

--The National Black Chamber of Commerce "Innovator of the Year Award" (2007)

--City of Baltimore Small Business Resource Center "Certificate of Appreciation" (2008)

--Jamaica (NY) Business Resource Center "Private Sector Leadership Award" (2008)

-- University of Texas "Certificate of Appreciation" (2009)

--SBA "Surety Partner of the Year Award" (2010)

Why the MCDP® Works So Well

The MCDP® is more than just a series of workshops. For one thing, the MCDP® demonstrates the commitment of the surety industry to making bonding available to all sectors of the construction community. The MCDP® introduces these small and emerging contractors to professional bond producers and regulated surety companies that offer an increasing array of surety products aimed at the smaller contractor. The MCDP® provides both information and access to other resources—such as construction CPAs and lenders—that small and emerging contractors need to better manage their companies and improve their bondability. The MCDP® results in successful bonding outcomes and relationships that allow the contractors to manage growth and increase their chances for long-term viability.

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